Copyright Board of Canada

2011-12

Departmental Performance Report

Christian Paradis
Minister of Industry and Minister of State (Agriculture)

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Minister's Message

The Department of Industry and the other members of the Portfolio have made significant progress on a number of priorities in 2011-12.

This past year, the Industry Portfolio has worked to strengthen Canada's business environment, support scientific research and development, encourage business-driven innovation, and modernize our laws for the digital economy. The Government of Canada has made science, technology and innovation a priority since 2006, and, as this report shows, we are continuing to fulfil our commitment.

In 2011-12, Copyright Board of Canada held hearings and issued decisions, certified tariffs, and delivered licences related to the public performance of musical works and sound recordings, the reproduction of literary works and the private copying regime. The Board also issued decisions and licences when the copyright owners of works could not be located.

Our government understands that innovation is one of the most important contributors to future economic growth. By creating new products and services, opening new markets and rethinking today's technologies, Canadian researchers, entrepreneurs and businesses across the country will help create new jobs, spur economic growth and ensure Canada's long-term prosperity.

As we move forward, the Industry Portfolio will continue to support government priorities while taking important steps to restore fiscal balance in the medium term. Through the right mix of strategic investment, marketplace frameworks and modern programs and services, we will continue to set the conditions for companies to succeed at home and abroad.

It is my pleasure to present the 2011-12 Departmental Performance Report for the Copyright Board of Canada.

Christian Paradis
Minister of Industry and Minister of State (Agriculture)

Section I: Organizational Overview

Raison d'être

Mandate of the Board
The Board is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a collective-administration society. The Board also has the right to supervise agreements between users and licensing bodies and issues licences when the copyright owner cannot be located.

Responsibilities

The Board is an independent administrative agency that has been conferred department status for purposes of the *Financial Administration Act*. The mandate of the Board is set out in the *Copyright Act* (the "*Act*"). The Board is empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works when the administration of such works is entrusted to a collective administrative society.

The Copyright Board of Canada is an economic regulator. It deals with complex social, cultural, demographic, economic and technological issues (e.g., communications technology, use of content over the Internet, streaming of video and audio files and software management systems to protect music or administer rights). The Board's decisions are not appealable, but can be the subject of judicial review by the Federal Court of Appeal. The Board has existed in one form or another since the 1930s, but its jurisdiction was significantly expanded in 1989 and 1997.

The program objective of the Board underlies the achievement of strategic outcomes related to innovation through new knowledge, which has become the main source of competitive advantage in all sectors of economic activity and is closely associated with increased exports, productivity growth, and the creation of new firms.

In this context, our country's handling of intellectual property matters is a critical element in our long-term success in innovation, and by extension, to our long-term economic health. The terms and conditions by which intellectual property owners (such as owners of copyrighted works) are compensated will largely define the incentive structure for innovation in and creation of copyrighted materials. In addition, the design and implementation of regulations can have a significant impact on innovation and competitiveness, particularly in the areas of intellectual property rights.

The Copyright Board of Canada was established on February 1, 1989, as the successor of the Copyright Appeal Board. Its responsibilities under the *Act* are to:

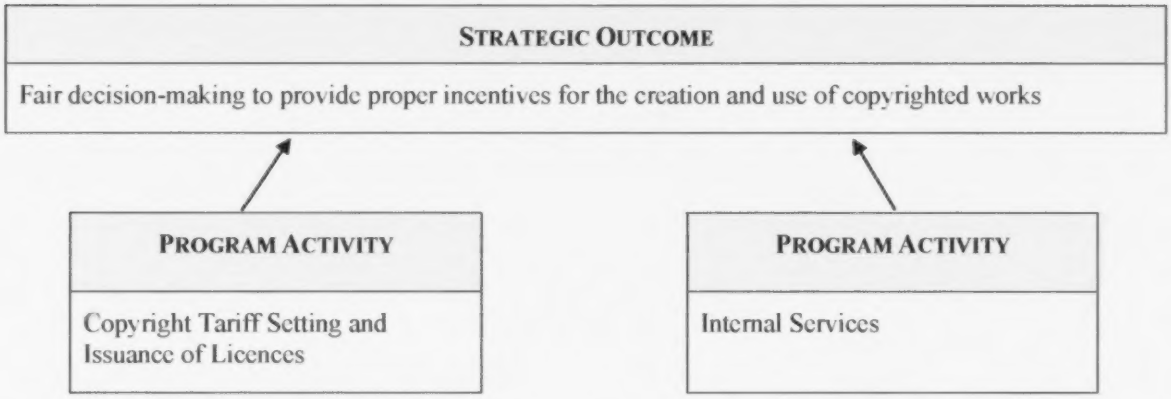
- certify tariffs for the public performance or the communication to the public by telecommunication of musical works and sound recordings [sections 67 to 69];

- certify tariffs, at the option of a collective society referred to in section 70.1, for the doing of any protected act mentioned in sections 3, 15, 18 and 21 of the *Act* [sections 70.1 to 70.191];
- set royalties payable by a user to a collective society, when there is disagreement on the royalties or on the related terms and conditions [sections 70.2 to 70.4];
- certify tariffs for the retransmission of distant television and radio signals or the reproduction and public performance by educational institutions, of radio or television news or news commentary programs and all other programs, for educational or training purposes [sections 71 to 76];
- set levies for the private copying of recorded musical works [sections 79 to 88];
- rule on applications for non-exclusive licences to use published works, fixed performances, published sound recordings and fixed communication signals, when the copyright owner cannot be located [section 77];
- examine, at the request of the Commissioner of Competition appointed under the *Competition Act*, agreements made between a collective society and a user which have been filed with the Board, where the Commissioner considers that the agreement is contrary to the public interest [sections 70.5 and 70.6];
- set compensation, under certain circumstances, for formerly unprotected acts in countries that later join the Berne Convention, the Universal Convention or the Agreement establishing the World Trade Organization [section 78].

In addition, the Minister of Industry can direct the Board to conduct studies with respect to the exercise of its powers [section 66.8].

Finally, any party to a licence agreement with a collective society can file the agreement with the Board within 15 days of its conclusion, thereby avoiding certain provisions of the *Competition Act* [section 70.5].

Strategic Outcome(s) and Program Activity Architecture (PAA)


STRATEGIC OUTCOME
Fair decision-making to provide proper incentives for the creation and use of copyrighted works
PROGRAM ACTIVITY
Copyright Tariff Setting and Issuance of Licences
PROGRAM ACTIVITY
Internal Services

Organizational Priorities

Summary of Progress Against Priorities

Priority	Type	Strategic Outcome(s) and/or Program Activity(ies)
Ensure timely and fair processes and decisions	Ongoing	Fair decision-making to provide proper incentives for the creation and use of copyrighted works
Advance the analytical framework for decisions and the regulatory processes for tariff-setting	Ongoing	Fair decision-making to provide proper incentives for the creation and use of copyrighted works
Improve management practices	Ongoing	Fair decision-making to provide proper incentives for the creation and use of copyrighted works

Note: "Type" is categorized as follows: **Previously committed to** - committed to in the first or second fiscal year before the subject year of the report; **Ongoing** - committed to at least three fiscal years before the subject year of the report; and **New** - newly committed to in the reporting year of the Departmental Performance Report.

1. Ensure timely and fair processes and decisions

In 2011-12, the Board took several steps which resulted in a reduction of the regulatory burden. For instance, when appropriate, the Board combined hearings processes which have resulted in some cost savings for the participants. Such was the case for the tariffs of SOCAN, Re:Sound and CSI applying to satellite radio. In addition, the Board also initiated a hearing process in writing for SOCAN's concert tariff, Tariff 4, for the years 2009 to 2011. This contributed to reduce costs for the parties.

The Board had meetings with key stakeholders in order to implement a working group to examine possible avenues to improve its rules of practice and procedure. Due to a larger workload that expected, however, the Board was not able to implement this working group fully. The project remains a priority.

The Board's priority of timely and fair decision-making was also achieved by engaging in pre-hearing consultations, information gathering and web site postings. These procedures assisted in conducting well-organized proceedings which address key issues facing copyright-related industries.

The Board receives tariff applications from collective societies on or before March 31 of the year prior to which a tariff is scheduled to begin. The Board has some latitude in the scheduling of hearings and tries to initiate the procedure leading to a hearing as efficiently as possible. The Board posts its upcoming hearing schedule on its website (www.cb-cda.gc.ca). There are no statutory deadlines for the release of the Board's decisions. However, the Board attempts to deal with all applications as expeditiously as possible, while keeping the interests and constraints of the parties in mind.

The Board will continue to report on two indicators that focus on measuring delays before decisions are published and licences delivered.

Delays in providing written decisions to Canadian copyright industry stakeholders can cause uncertainty, thus impacting on the Board's capacity to provide incentives for the creation and use of copyrighted works. Therefore, the Board gathered data on the number of months between the date when a particular tariff file is complete, and the date when the tariff is certified. In the Report of Plans and Priorities (RPP) for 2010-11, a target of 12 months was set, with a complying percentage of 70 per cent. The Board believes that a 12-month target is reasonable given the resources it has and the complexity of the decisions it needs to render.

Twelve decisions were rendered by the Board during fiscal year 2011-12, of which three were final decisions, four were interim decisions, four were decisions on applications to vary, and one was a decision on a preliminary issue. Of these 12 decisions, 10 (or 83 per cent) were issued within 12 months of completion of the files. The two decisions not rendered by the Board within the 12-month deadline related to CBC radio and to recorded music to accompany dancing. In the CBC radio decision, the Board certified an entirely new formula which did not relate CBC royalties to those of commercial radio. The dancing decision was delayed until the Board decided to split dancing and fitness into two separate tariffs. The overall average time from file closure was 5.0 months, somewhat less than the 5.8 months reported for 2010-11. The average time from file closure was less than 12 months for all four categories of decision mentioned above. Hence, our target was successfully met.

In addition, pursuant to section 77 of the *Act*, the Board may grant licences that authorize the use of a published work, a fixation of a performer's performance, a published sound recording, or a fixation of a communication signal if the copyright owner cannot be located. The Board's objective with respect to this activity is to issue licences in a timely manner. Therefore, we also gathered data on the number of months between the date when a particular licence file is

complete, and the date of issuance of the licence. In the RPP for 2010-11, a target of 45 days was set between the file completion date and the issuance of the licence, to be met in at least 70 per cent of the files. The publicly stated target of 45 days was set taking into account the Board's resources.

Seven licences were delivered during fiscal year 2011-12. Five of the seven licenses, or 71 per cent, were issued within 45 days. Our target was thus successfully met.

Greater participant satisfaction is closely linked to the timeliness and orderly conduct of formal proceedings. The Board continued to structure and sequence hearing stages so as to eliminate duplication and maximize time spent on relevant issues.

Because the Board hearings involve adversarial parties, some of whom will likely experience direct economic gain or loss in association with an offsetting gain or loss to another party, the Board's decisions cannot be expected to be satisfactory to all parties at all times. However, the Board attempts to bring unbiased and rigorous reasoning to its decision-making. The Board also recognizes the need to provide clear and sufficiently detailed explanations in its decisions so as to assist parties in preparing for the next round of tariff-setting.

In addition, the Board continued to examine alternatives to current procedures based upon input from hearing participants as part of a plan to develop and implement a more active involvement in pre-hearing information gathering aimed at reducing time and cost to participants while safeguarding the fairness of procedures.

Starting with the Departmental Performance Report for 2012-13, the Board intends to also report on the level of satisfaction of participants, in particular with respect to the services provided either as part of a formal hearing process leading to the certification of a tariff or in an informal process leading to the issuance of a licence. The Board had planned to start reporting on this indicator as early as the fiscal year 2010-11. However, because of a heavy workload associated with the current large number of pending decisions, the implementation of the survey to measure the level of satisfaction of participants had to be delayed. Work is now being planned to be able to measure, through a survey, the satisfaction of participants in respect of the issuance of a licence. Alternative ways are being explored to measure the satisfaction of participants in tariff processes.

2. Advance the analytical framework for decisions and the regulatory processes for tariff-setting

As a key tool in addressing the challenges of changing technology and the impact of global events, the Board is encouraging the active participation of its staff and members in international initiatives, events and conferences. By discussing and comparing experiences across different countries, the Board can gain early warning of significant developments and their likely impacts on the Canadian situation.

Among the international conferences of copyright specialists which the Board Members and staff attended in 2011-12, the following are noteworthy: the Nineteenth Annual Conference of the Fordham Intellectual Property Law Institute (New York, April 2011); the Annual Conference of

the *Association littéraire et artistique internationale* (ALAI) (Dublin, June 2011); the Annual Congress of the Society for Economic Research on Copyright Issues (SERCI) (Bilbao, July 2011); and, the Future of Music Coalition Summit (Washington, October 2011). The Board was also represented at numerous similar national meetings in Canada. The rationale for the Board's "screening" activities is to identify and assess industry trends before they undermine existing copyright regimes.

As part of its effort to increase leadership on copyright matters, the staff of the Board was able to work on, complete or publish a number of studies with respect to important legal and economic copyright issues.

3. Improve management practices

The Board has updated its Human Resources Plan as this is an evolving document that needs to be reviewed to take into account changing priorities. The Board has also continued to work on the implementation of its Performance Measurement Framework, which will be done for 2012-13.

The Board continued to develop and implement key IM/IT initiatives in support of business development and enhancement activities.

The Board continued to progress on all public service renewal commitments that respond to challenges related to planning, engagement, recruitment, building capacity, and providing supportive human resource management architecture. Accomplishments include a more integrated, inclusive and horizontal approach to planning.

Risk Analysis

Operating Environment

The mandate of the Copyright Board of Canada is set out in the *Act* as amended in 1997. The Board has powers of a substantive and procedural nature. Some powers are granted to the Board expressly in the *Act*, and some are implicitly recognized by the courts.

The *Act* requires that the Board certify tariffs in the following fields: the public performance or communication of musical works and of sound recordings of musical works, the retransmission of distant television and radio signals, the reproduction of television and radio programs by educational institutions and private copying. In other fields where rights are administered collectively, the Board can be asked by a collective society to set a tariff; if not, the Board can act as an arbitrator if the collective society and a user cannot agree on the terms and conditions of a licence.

The examination process is always the same. The collective society must file a statement of proposed royalties which the Board publishes in the *Canada Gazette*. Tariffs come into effect on January 1. On or before the preceding 31st of March, the collective society must file a proposed

statement of royalties. The users targeted by the proposal (or in the case of private copying, any interested person) or their representatives may object to the statement within 60 days of its publication. The collective society in question and the opponents will then have the opportunity to argue their case in a hearing before the Board. After deliberations, the Board certifies the tariff, publishes it in the *Canada Gazette*, and explains the reasons for its decision in writing.

As a rule, the Board holds hearings. No hearing will be held if proceeding in writing accommodates a small user that would otherwise incur large costs. The hearing may be dispensed with on certain preliminary or interim issues. No hearings have been held to date for a request to use a work whose owner cannot be located. Information is obtained either in writing or through telephone calls.

Risk Evaluation

The Board's decisions and licences set fair and equitable rates and conditions for the use of copyright protected works. Overall, the Board is responsible for tariffs that are estimated to be worth over $400 million annually. In fact, copyright tariffs support several industries which, according to a Conference Board of Canada study (Valuing Culture, Measuring and Understanding Canada's Creative Economy, Conference Board of Canada, August 2008), generated in 2007 an amount representing 7.4 per cent of Canada's GDP when taking into account the direct, indirect and induced contribution. They also contributed 1.1 million jobs to the economy.

Because the stakes are considerable both for copyright holders and for users of copyright, interventions before the Board are thorough, sophisticated and often involving expert witnesses, litigation specialists and detailed econometric, business and financial studies, surveys and evidence. The Board must be able to correctly assess the ever-changing technological environment (such as the Internet, digital radio, satellite communications), the global events, the new business models and the interests of owners and users in order to contribute, with fair and equitable decisions, to the continued growth of Canada's knowledge industries.

Decisions and tariffs issued by the Board must also take into account the specific environment in which it will be applied. A tariff's structure and terms and conditions need to be set in accordance with the industry's technology, business models and economic environment. Sound tariff decisions avoid serious disruption in affected sectors of the national economy and costly and time-consuming court challenges. They also more generally impact positively on the growth of the sectors involved, and hence on the overall economy.

Among the most significant risks which the Board faces in achieving its strategic outcomes is the potentially disruptive impact of new technologies (i.e., in terms of how copyright material is utilized, distributed and monitored). The Board's approach to managing the technology risk is to systematically monitor relevant journals, other publications and web sites, and to attend industry seminars and conferences, as described before in this report.

The decisions the Board makes are constrained in several respects. These constraints come from sources external to the Board: the law, regulations and judicial pronouncements. Others are self-imposed, in the form of guiding principles that can be found in the Board's decisions.

Court decisions also provide a large part of the framework within which the Board operates. Most decisions focus on issues of procedure, or apply the general principles of administrative decision-making to the specific circumstances of the Board. However, the courts have also set out several substantive principles for the Board to follow or that determine the nature of the Board's mandate or discretion.

The Board also enjoys a fair amount of discretion, especially in areas of fact or policy. In making decisions, the Board itself has used various principles or concepts. Strictly speaking, these principles are not binding on the Board. They can be challenged by anyone at anytime. Indeed, the Board would illegally fetter its discretion if it considered itself bound by its previous decisions. However, these principles do offer guidance to both the Board and those who appear before it. In fact, they are essential to ensuring a desirable amount of consistency in decision-making.

Among those factors, the following seem to be the most prevalent: the consistency between the various elements of the public performance of music tariffs, the practicality aspects, such as the ease of administration to avoid tariff structures that make it difficult to administer the tariff in a given market, the search for non-discriminatory practices, the relative use of protected works, the taking into account of Canadian circumstances, the stability in the setting of tariffs that minimizes disruption to users, as well as the comparisons with "proxy" markets and comparisons with similar prices in foreign markets.

Summary of Performance

2011-12 Financial Resources ($ thousands)

Planned Spending	Total Authorities	Actual Spending
3,125	3,065	2,541

2011-12 Human Resources (full-time equivalents - FTEs)

Planned	Actual	Difference
16	14	2

Progress Toward Strategic Outcome

Strategic Outcome: Fair decision-making to provide proper incentives for the creation and use of copyrighted works		
Performance Indicators	**Targets**	**2011-12 Performance**
Percentage of tariff decisions published within 12 months	70% of tariff decisions will be published within one year	83% of cases
Percentage of licences issued within 45 days	70% of licences will be issued within 45 days	71% of cases
Level of satisfaction of stakeholders	70% satisfaction rate	Not measured

Performance Summary, Excluding Internal Services

Program Activity	**2010-11 Actual Spending ($ thousands)**	**2011-12 ($ thousands)**				**Alignment to Government of Canada Outcome**
		Main Estimates	**Planned Spending**	**Total Authorities**	**Actual Spending**	
Copyright Tariff Setting and Issuance of Licences	2,078	2,514	2,514	2,465	2,058	An innovative and knowledge-based economy

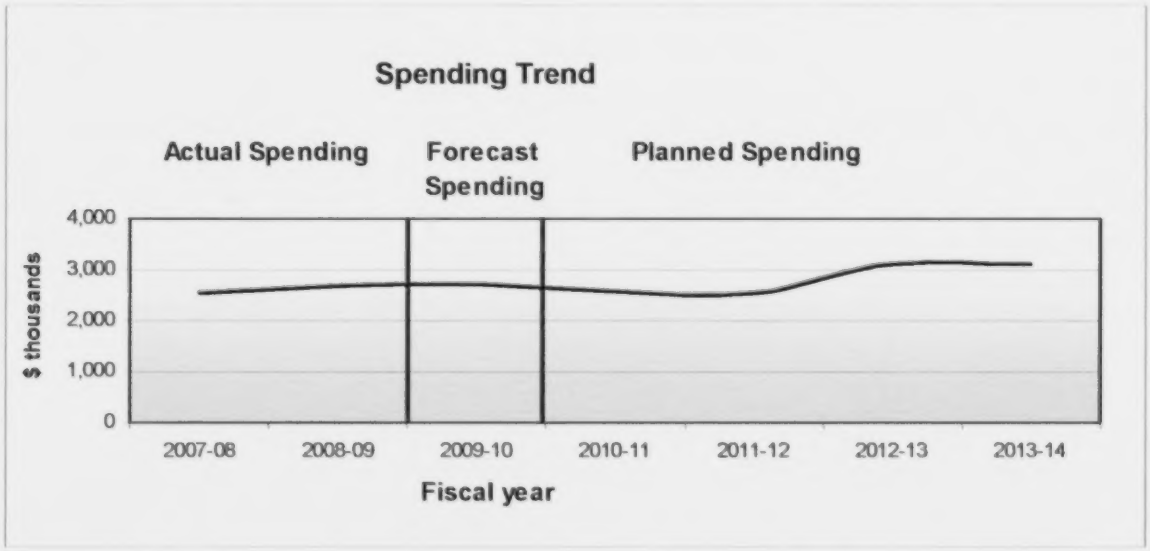
Performance Summary for Internal Services

Program Activity	**2010-11 Actual Spending ($ thousands)**	**2011-12 ($ thousands)**			
		Main Estimates	**Planned Spending**	**Total Authorities**	**Actual Spending**
Internal Services	488	611	611	600	483

Expenditure Profile

The Board's actual spending for 2011-12 was $2.54 million. This is similar to the actual spending for the year 2010-11.

The chart below shows the evolution through time of actual and planned spending for the unique program activity. Although planned expenditures for 2011-12 were at $3.24 million, actual spending was only $2.54 million. This is due to the fact that some positions are still vacant and from savings achieved through cost containment measures.



Estimates by Vote

For information on the Copyright Board of Canada's organizational Votes and/or statutory expenditures, please see the Public Accounts of Canada 2012 (Volume II). An electronic version of the Public Accounts 2012 is available on the Public Works and Government Services Canada's website. [i]

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome: Fair decision-making to provide proper incentives for the creation and use of copyrighted works

The Board's strategic outcome is to ensure fair decision-making to provide proper incentives for the creation and uses of copyrighted works. The achievement of this outcome relates to innovation, which is a main source of competitive advantage in all areas of economic activity.

The use and re-use of cultural and entertainment content (such as musical and audio-visual works) have become widespread with the advent of new media and online services, new playback and editing technologies and new uses in conventional media. These matters relate to some of society's most complex and contentious issues, including the downloading of content over the Internet using file-sharing software and the proliferation of duplication technologies which have the capability to make digital copies of CDs and DVDs. At the same time, new opportunities for streaming video and audio files, whether interactively, semi-interactively, or passively have emerged. Personal video recorders and other similar devices used in conjunction with television sets have begun to blur lines between the broadcasting sector and the entertainment rental/purchase sector. Personal audio players have the capacity to store entire libraries of music, literally thousands of songs. It is in this environment that the Board must operate to achieve its strategic outcome.

The Copyright Board of Canada recognizes the need to ensure an effective and efficient copyright regulatory regime in order to attain the maximum productivity in those sectors that create and use copyrighted works. Further, the performance of the Copyright Board will promote a fair and competitive marketplace as well as reasonable opportunities for Canadian firms to export copyright protected goods and services in the music, for content creation and programming areas, as well as for the broadcasting, publishing and entertainment industries.

Program Activity: Copyright Tariff Setting and Issuance of Licences

The Board is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a collective-administration society. The Board also has the right to supervise agreements between users and collective societies and issues licences when the copyright owner cannot be located.

2011-12 Financial Resources ($ thousands)

Planned Spending	Total Authorities	Actual Spending
2,514	2,465	2,058

2011-12 Human Resources (FTEs)

Planned	Actual	Difference
14	12	2

Expected Results	Performance Indicators	Targets	Performance Status
Fair and Equitable Tariffs and Conditions	Percentage of tariff decisions published within 12 months	70% of tariff decisions will be published within one year	83% of cases
Fair and Equitable Tariffs and Conditions	Percentage of licences issued within 45 days	70% of licences will be issued within 45 days	71% of cases

Performance Summary and Analysis of Program Activity

In 2011-12, the Board held a single hearing, relating to the Crown immunity claims asserted by some of the users of Access Copyright's Provincial and Territorial Governments Tariff. This hearing took place on September 27, 2011.

The Board issued three final decisions during the fiscal year. The first one dealt with the right to reproduce and perform works by educational institutions; the second dealt with the right to play sound recordings to accompany dance; and the third dealt with musical works and sound recordings as broadcast by CBC's conventional radio.

In addition, the Board issued nine interlocutory decisions, either interim, on applications to vary, or on a preliminary issue. These decisions related to an arbitration between SODRAC and ARTV, an interim tariff for private copying, an interim tariff for some Internet uses (SOCAN Tariffs 22.D on audiovisual webcasts and 22.G on audiovisual user-generated content), an application to vary Re:Sound's dance tariff, the Crown Immunity application mentioned above, and three applications to vary as well as an interim tariff in respect of the Access Copyright Post-Secondary Institutions Tariff.

In the last fiscal year, seven licences were also issued under the provisions of the *Copyright Act* which permit the use of published works for which the copyright owners cannot be located.

What follows is a brief summary of these activities listed according to the legal regime that applies to each category. For further detail, and information on the nine interlocutory decisions issued by the Board, please refer to the Board's 2011-12 Annual Report which can be found at www.cb-cda.gc.ca.

1. Public Performance of Music

On July 8, 2011, the Board issued a decision dealing with the public performance of musical works and sound recordings on CBC radio for the years 2006 to 2011. This decision certified a new formula for royalties payable by CBC radio, replacing the previous formula which related those royalties to those payable by commercial radio stations. In addition, the decision examined the question of how royalties should be adjusted for inflation and how interest should be charged on royalty payments due for periods in the past.

On July 15, 2011, the Board issued a decision dealing with the public performance of sound recordings to accompany dance for the years 2008 to 2012. The decision severed the dance tariff from a tariff relating to sound recordings to accompany fitness activities. The dance tariff is closely related to the dance tariff certified for musical works.

2. Collective Administration (General Regime)

During fiscal year 2011-12, the Board held a hearing (on September 27, 2011) to examine the question of whether the concept of Crown immunity relieves provincial and territorial governments from the requirement of paying royalties for reprographic reproductions of protected works.

3. Arbitration

During fiscal year 2011-12, the Board did not hear any applications for arbitration, but received five requests for arbitration. In addition, on January 5, 2012, the Board issued an interim decision on SODRAC v. ARTV.

4. Educational Rights

In 2011-12, no hearing were held in respect of educational rights.

On December 24, 2011, the Board certified the Educational Rights Tariff, for the years 2012-2016. The tariff is essentially identical to the tariff certified by the Board for the years 2007-2011. It provides two options: reproduction rights are cleared on a transactional basis unless the educational institution elects to comply with a comprehensive tariff.

5. Private Copying

No hearings were held during the fiscal year. The Board rendered one decision on December 19, 2011 in respect of the interim tariff for private copying for the years 2012-2013.

6. Unlocatable Copyright Owners

In 2011-12, 28 applications were filed with the Board for the use of published works for which rights holders could not be found and seven non-exclusive licences were issued for the use of such works.

7. Agreements Filed with the Board

In 2011-12, 144 agreements were filed with the Board pursuant to section 70.5 of the *Act*.

Access Copyright which licenses reproduction rights such as digitization and photocopy, on behalf of writers, publishers and other creators, filed 46 agreements granting educational institutions, language schools, non-profit associations, copy shops and others a license to photocopy works in its repertoire.

The *Société québécoise de gestion collective des droits de reproduction* (COPIBEC) filed 97 agreements. COPIBEC is the collective society which authorizes in Quebec the reproduction of works from Quebec, Canadian (through a bilateral agreement with Access Copyright) and foreign rights holders. The agreements filed in 2011-12 were concluded with various educational institutions, municipalities, non-profit associations and other users.

Finally, a single agreement was filed jointly by Access Copyright and COPIBEC with regard to the Bank of Montreal.

Lessons Learned

The Board has been facing increasing workload pressures leading to unnecessary delays in issuing decisions and creating a backlog in the certification of uncontested tariffs. The Board recognized the need for stability to overcome the challenges it was facing. The first step taken by the Board was to establish its succession plans, which are crucial for the orderly continuation of the Board's activities.

The second step was to more directly deal with the delays and the backlog. In that respect, the Board is still in the process of hiring additional staff that would be able to address the backlog. Because the Board is a very small agency however, this process is being challenged by the departure or retirement of key persons at the Board.

Program Activity: Internal Services

Internal services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services include only those

activities and resources that apply across an organization and not to those provided specifically to a program.

2011-12 Financial Resources ($ thousands)

Planned Spending	Total Authorities	Actual Spending
611	600	483

2011-12 Human Resources (FTEs)

Planned	Actual	Difference
2	2	0

Expected Results	Performance Indicators	Targets	Performance Status
N/A	N/A	N/A	N/A

Performance Summary and Analysis of Program Activity

This activity deals with financial and materiel management policies, systems, processes and standards. In implementing these policies, compliance with Parliament's requirements for financial stewardship and integrity is ensured. This activity also encompasses the responsibility of providing human resource services.

The Board receives timely support from the services mentioned above.

Copyright Board of Canada

Section III: Supplementary Information

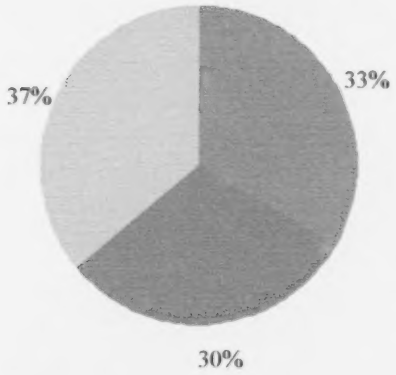
Financial Highlights

Condensed Statement of Financial Position (Unaudited) As at March 31, 2012 (in dollars)			
	Change %	**2011–12**	**2010–11**
Total net liabilities	-1%	475,116	478,553
Total net financial assets	40%	54,160	38,765
Departmental net debt	4%	420,956	439,788
Total non-financial assets	-26%	30,998	43,037
Departmental net financial position	**-2%**	**(389,958)**	**(397,751)**

Condensed Statement of Operations and Departmental Net Financial Position (Unaudited) For the Year Ended March 31, 2012 (in dollars)			
	Change %	**2011–12**	**2010–11**
Total expenses	-5%	2,848,159	3,003,938
Net cost of operations before government funding and transfers	-5%	2,848,159	3,003,938
Departmental net financial position	**-2%**	**(389,958)**	**(397,751)**

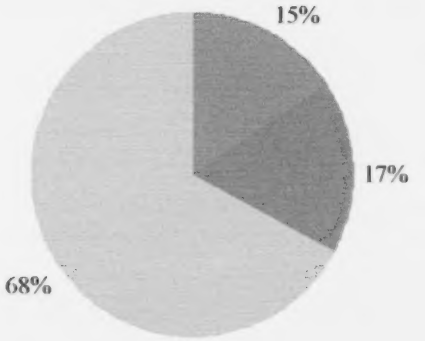
Financial Highlights Graphs

Assets by Type



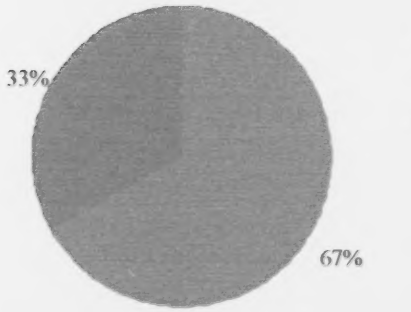
Total assets are valued at about $116,000 in fiscal year 2011-12. This is composed of tangible capital assets (37% or $42,000), due from CRF (33% or $39,000) and accounts receivable (30% or $35,000).

Liabilities by Type



Total liabilities are valued at about $478,000 for fiscal year 2011-12. This is mostly made up of employee future benefits (68% or $322,000), vacation pay and compensatory leave (17% or $82,000) and accounts payable and accrued liabilities (15% or $74,000).

Expenses by Type



For fiscal year 2011-12, total expenses are $3 million. Most of these expenses are made up of salaries and employee benefits (67% or $2 million), and operating expenses (33% or $1 million). The majority of these latter expenses are required for the Board's unique program activity. The balance is made up of expenses associated with internal services.

Financial Statements

The Board's financial statements can be found on the Board's website at: www.cb-cda.gc.ca.

Section IV: Other Items of Interest

Organizational Contact Information

Copyright Board of Canada
Suite 800 - 56 Sparks Street
Ottawa, Ontario K1A 0C9
Telephone: 613.952.8621
E-mail: secretariat@cb-cda.gc.ca

Additional Information

Board Members

Board members are appointed by the Governor in Council to hold office during good behaviour for a term not exceeding five years. They may be reappointed once.

The *Act* requires that the Chairman must be a judge, either sitting or retired, of a superior, county or district court. The Chairman directs the work of the Board and divides its caseload among the members.

The *Act* also designates the Vice-Chairman as Chief Executive Officer of the Board. He or she exercises direction over the Board and supervises its staff.

The organizational structure of the Board follows the requirements set out in section 66 and following sections of the *Act*.

Board's Staff

The Board has a staff of 13 employees, organized around five operational groups:

1. The Registry group plans and manages all activities and resources related to public hearings and the issuing of licences for the use of works whose copyright owners cannot be located. This includes receiving, organizing and reviewing the documentary evidence and information, and organizing and maintaining the Board's records, archives and library.

2. The Research and Analysis group, which is responsible for the preparation and analysis of reports and research papers, the development of scenario analysis and recommendations and the provision of economic support to Board members and for decisions.

3. The Legal Analysis group, which provides legal analysis and advice on tariff and licence applications before the Board, and represents the Board before the Courts in matters involving its jurisdiction.

4. The Corporate Services group, which is responsible for financial and materiel management policies, systems, processes and standards which are consistent with modern comptrollership.

5. The Technical Support group, which provides support in particular in respect of computers and related technology.

Endnote

[1] An electronic version of the Public Accounts 2012 is available on the Public Works and Government Services Canada's website at the following address: http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html.